IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21704 of 2004

Between:

1 Shaik Ghouse Mohiuddin, S/o. Dastagiri Saheb,
R/o. Dargamitta, Nellore.
2 Syed Samdhani Basha, S/o. Abdul Khader,
R/o. Janda Veedhi, Nellore.
3 Pathan Aijaz Khan, S/o. Chand Basha,
R/o. Yahiyali Road, Nellore.

..... PETITIONERS

AND

1 The Revenue Divisional Officer,-cum-Chairman,

Land Reforms Tribunal, Nellore.

2 The District Collector, Nellore.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ of Mandamus or any other appropriate writ or writs, Order or Direction, declaring the impugned proceedings dated. 5.11.2004 in CC.No.1960/1961/3247 & 3491/NLR/75 on the file of the first respondent herein in so far as it relates to the lands of the petitioners in Sy. Nos. 1881 admeasuring 2 acres, Sy.No.1882 admeasuring 15 acres and Sy. No.1883 admeasuring 3 Acres of Nellore Bit I, as illegal, arbitrary and jurisdiction; Award costs.

Counsel for the Petitioner: MR.N.SRIDHAR REDDY

Counsel for the Respondent No.1.: GP for Land Reforms.

Counsel for the Respondent No.2: GP FOR REVENUE

The Court made the following :

ORAL ORDER:

The petitioners have filed this writ petition challenging the proceedings, dated 5.11.2004 in C.C.No.1960/1961/3247 & 3491/NLR/75 issued by the 1st respondent.

Heard the learned counsel for both the parties and perused the material on record.

Sri N.Sridhar Reddy, learned senior counsel for the petitioners has vehemently contended that the sale transactions that were taken place prior to 1.1.1975 as per Section 17 of the A.P. Land Reforms Act, 1973 in respect of the lands of an extent of Ac.20.00 cents belonging to the petitioners cannot be taken into consideration in computing the holding of a declarant, therefore, those lands have already been sold to third parties and the authorities rightly accepted the case of the declarant and found that the declarant was a non-surplus holder. Hence, he prays to quash the proceedings.

On the other hand, the learned Government Pleader for Land Reforms has vehemently contended that since the original declarant has played fraud with the Tribunal, the case in C.C.No/1960/1961/3247 & 3491/NLR/75 has been reopened for the purpose of proper determination of the holding of the original declarant and therefore, the subject matter is to be decided and adjudicated in the aforementioned case and the proceedings do not in any way affect the rights of the parties. Hence, he prays to dismiss the writ petition.

As seen from the impugned proceedings, three directions were given

to the authorities concerned:

1. *The Mandal Revenue Officers concerned shall maintain status-quo of the lands in survey numbers covered by this order and ensure that no fresh occupation shall take place hereafter till finalisation of the cases re-opened in C.C.No.1960, 1961, 3247 and 3491/Nlr/1975 and the same may be published in the villages concerned by beat of tom-tom.*

2. *The District Registrar, Nellore is requested to issue necessary instructions to his subordinate officers not to entertain any sort of sale transactions hereafter in respect of the lands in Survey Nos. covered (in this order) in the respective Mandals. If any such transaction is noticed, the same may be informed to this office immediately.*

3. *The M.R.Os. concerned are hereby directed to furnish reports as to whether the entire lands in Survey Nos. referred to above in this order were under the possession and enjoyment of the declarants as on the date of enforcement of the Act or the physical status of land as on the date of enforcement of APLR (COAH) Act, 1973 shall be reported."*

The reopening of C.C.Nos.1960, 1961, 3247 and 3491/NLR/1975, dated 5.11.2004 has not been challenged so far. The Chairman, Land Reforms Tribunal-cum-Revenue Divisional Officer, Nellore is competent to determine and adjudicate the holding of the original declarant. The present petitioners are the purchasers of the land of an extent of Ac.20.00 cents. Before the purchase of the said land, three or four sale transactions were effected. So, the main question, whether the original declarant has suppressed the sales, has to be determined by the 1st respondent.

Having regard to the facts and circumstances of the case, I am of the considered opinion that when the reopening of the case is not under challenge, the impugned proceedings do not suffer from any serious infirmities so as to call for interference by this Court except

direction No.2 as referred to above. Unless the land is notified in accordance with the Section 22-A of the Registration Act, 1908, the registration authority has no power to refuse the document. Therefore, a direction to the District Registrar, Nellore not to entertain any sort of sale transaction in respect of the survey numbers as mentioned in the impugned proceedings, dated 5.11.2004 cannot sustain. However, it is made clear that mere registration of the sale deeds does not confer any title to the parties since the lis is to be adjudicated by the Chairman, Land Reforms Tribunal, Nellore. It is also made clear that if the petitioners are in possession of the property as on 5.11.2004, they shall continue to remain in the property until the Land Reforms Tribunal takes a decision after affording an opportunity to the parties.

With the above observations, the writ petition is disposed of. There shall be no order as to costs.

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(K.C. BHANU,J.)

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

26th November, 2004.

bcj

To

1 The Revenue Divisional Officer-cum-Chairman,

Land Reforms Tribunal,

Nellore.

2 The District Collector, Nellore.

3. Two CCs to G.P for Land Reforms, High Court Buildings, Hyderabad.

(OUT)

4. Two CCs to G.P for Revenue, High Court Buildings, Hyderabad(OUT).

5. Two CD Copies.